

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEVEN MATZURA *on behalf of himself and all  
other persons similarly situated,*

Plaintiff,

-v-

MICHAELS COMPANIES, INC.,

Defendant.

19 Civ. 9928 (PAE) (DCF)

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 29, 2020, defendant Michaels Companies, Inc. (“Michaels”) moved to dismiss plaintiff Steven Matzura’s initial complaint in this case. Dkt. 14. On January 30, 2020, the Court referred the motion to the Honorable Debra C. Freeman, United States Magistrate Judge, for a report and recommendation. Dkt. 17. On February 11, 2020, Matzura filed an amended complaint. Dkt. 20. On March 11, 2020, Michaels moved to dismiss Matzura’s amended complaint. Dkt. 25.

On July 10, 2020, the parties filed a joint letter, addressed to Judge Freeman, “request[ing] a stay of the proceedings in this action, pending the ruling of the Second Circuit Court of Appeals’ review of rulings on similar motions to dismiss,” including *Yovanny Dominguez v. Banana Republic, LLC*, No. 19 Civ. 10171 (GHW) (“*Banana Republic*”) and *James Murphy v. Kohl’s Department Stores, Inc.*, No. 19 Civ. 9921 (GHW) (“*Kohl’s*”). Dkt. 32 at 1.

The Second Circuit’s resolution of these appeals will almost certainly occasion significant re-briefing of Michaels’ pending motion, if not the resolution of this litigation. Further, with discovery having been stayed at the parties’ joint request, *see* Dkt. 30, neither party

would be prejudiced by the Court's waiting for guidance from the Circuit regarding identical issues. Accordingly, the Court administratively terminates Michaels' motion to dismiss, without prejudice to its ability to refile its motion subsequent to the Circuit's decision in *Banana Republic, Kohl's*, or another case presenting the same issue. The parties are directed to submit a joint status letter within one week of the Second Circuit's issuance of such a decision. In the interim, the Court grants the parties' motion for a stay of this case.

The Clerk of Court is respectfully directed to terminate the motions pending at dockets 25 and 32, and to stay this case.

SO ORDERED.

  
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PAUL A. ENGELMAYER  
United States District Judge

Dated: July 10, 2020  
New York, New York